

Bardis Vakili, CA SBN 247783
Law Office of Bardis Vakili, P.C.
P.O. Box 234160
Encinitas, CA 92023
Tel: (619) 483-3490
bardis@vakililegal.com

Counsel for Plaintiff Rosa Lopez and Minor V-S-

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Rosa Lopez, as Legal Guardian of V-S-, a
Minor and Successor in Interest to the Estate
of Victor Sanchez Brito;

Plaintiffs,

v.

United States of America; GEO Group, Inc.,
a corporation,

Defendants.

Case No. _____

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL AS TO THOSE
CLAIMS SO TRIABLE

COMPLAINT

INTRODUCTION

1
2 1. Immigration agencies and their prison subcontractors have no authority to
3 incarcerate United States citizens for civil immigration proceedings. They certainly may not
4 subject a lifelong U.S. citizen with a serious mental illness to nearly seven years of such
5 imprisonment, including several years in near-total isolation, because they neglected to look for
6 and then chose to ignore evidence that he was born in the United States. This case is about
7 immigration authorities' disregard for the limits of their authority under these principles, for the
8 binding laws and policies that enforce them, and the devastating consequences that resulted for
9 one young man.

10 2. Plaintiff Rosa Lopez ("Ms. Lopez") brings this action under the Federal Tort
11 Claims Act ("FTCA"), Rehabilitation Act, and California state laws to seek accountability for
12 the shocking mistreatment of her son, a U.S.-born citizen, by agents of U.S. Immigration and
13 Customs Enforcement ("ICE") and The GEO Group ("GEO").

14 3. Victor Manuel Sanchez Brito ("Mr. Sanchez Brito" or "Victor") was a father to a
15 young child, a son to a loving mother, and a brother to three siblings. He lived with
16 schizoaffective disorder—bipolar type and a cognitive disability stemming from a traumatic
17 childhood brain injury. Since the day he was born in his parents' trailer in Temecula, California
18 in 1990, he was a United States citizen, like anyone else born in the United States. His U.S.
19 citizenship had never been in question.

20 4. But then, in 2015, ICE arrested Mr. Sanchez Brito after a cursory, illegal, and
21 deficient investigation led the agency to jump to the incorrect conclusion he was not a U.S.
22 citizen. Agents based this erroneous arrest on a delayed "registration" created in Mexico months
23 after his birth under obviously suspicious circumstances. Among other things, the document
24 stated on its face that Mr. Sanchez Brito's parents were not present at the registration, a plain red
25 flag that ICE officials never noted or investigated. ICE also procured the document in violation
26 of California laws meant to protect against unauthorized use of juvenile files.

27 5. For nearly seven years, ICE officials steadfastly refused to release Mr. Sanchez
28 Brito, even after he, his mother, and his immigration lawyer presented evidence that he was born

1 in the United States and that the delayed Mexican registration was fraudulently procured without
2 his mother's knowledge by his paternal grandmother. In arresting him and subjecting him to
3 years of confinement, ICE officials violated binding agency policies mandating release when
4 presented with such evidence.

5 6. First, ICE incarcerated Mr. Sanchez Brito in the Yuba County Jail ("Yuba Jail")
6 for more than three years. Then, ICE transferred him to the Mesa Verde ICE Processing Center
7 ("Mesa Verde"), operated by GEO, where Defendants imprisoned him for more than three
8 additional years. During his confinement, Defendants subjected Mr. Sanchez Brito to inhumane
9 treatment in conditions identical to or worse than those faced by people in pre-trial detention or
10 serving criminal sentences, despite legal requirements that such supposedly "civil" immigration
11 detention be non-punitive in nature.

12 7. For the majority of his time in ICE custody at both Yuba Jail and Mesa Verde,
13 Defendants subjected Mr. Sanchez Brito to prolonged periods of isolation in a tiny cell, often for
14 many consecutive months at a time, where they denied him access to programs, recreation time,
15 and socialization opportunities offered to others, and where staff verbally abused him for his
16 mental illness. At the same time, Defendants also discontinued the medication that they knew
17 had been helping Mr. Sanchez Brito successfully manage his mental illness for years, against the
18 recommendations of medical staff. They instead imposed treatment they knew to be ineffective,
19 simply because it was easier and/or cheaper. Defendants inflicted this abuse on Mr. Sanchez
20 Brito on account of his disability, in violation of anti-discrimination laws and applicable
21 detention standards.

22 8. Unsurprisingly, Defendants' prolonged torment of Mr. Sanchez Brito took its toll.
23 When he entered ICE custody, he was able to carry on conversations, understand his
24 proceedings, and follow rules. By the time Defendants were done with him, he had suffered
25 several psychotic breaks, often could not speak in coherent sentences, and had lost 30 pounds.
26 The years-long degradation caused his physical and mental health to deteriorate so substantially
27 that he never recovered. When ICE finally relented and released him – only after a federal
28 district court unequivocally confirmed his U.S. citizenship and derided ICE's inadequate

1 investigation – Mr. Sanchez Brito was a broken man. Although he tried to recover from his
 2 seven-year nightmare with the support of his loving family, he was still suffering. He avoided
 3 social interaction with people who knew him. Often, he would sleep underneath his bed.

4 9. Within months of his release, Mr. Sanchez Brito was found dead after an apparent
 5 drug overdose, in what his mother believes was a suicide. He was 32 years old.

6 **JURISDICTION AND VENUE**

7 10. **Jurisdiction:** This Court has jurisdiction over the present action under 28 U.S.C.
 8 § 1331 (federal question), 28 U.S.C. § 1346(b) (federal defendant), and 28 U.S.C. § § 2674, 2680
 9 (FTCA). This Court has supplemental jurisdiction over Plaintiff's California state law claims
 10 pursuant to 28 U.S.C. § 1367.

11 11. **Venue:** Venue is proper in this district pursuant to 28 U.S.C. § 1391 (general
 12 venue) and 28 U.S.C § 1402(b) (FTCA venue) because (1) this is a civil action that includes a
 13 claim under the FTCA in which a defendant is the United States of America, (2) Plaintiff resides
 14 in Marin County, California in this judicial district, (3) a substantial part of the conduct, events,
 15 acts, and omissions giving rise to the claims occurred in the ICE San Francisco Field Office, in
 16 the immigration court in San Francisco, California, and in Marin and Contra Costa Counties, all
 17 of which are located in this judicial district, and (4) Defendant GEO is subject to this Court's
 18 personal jurisdiction.

19 12. **Divisional Assignment:** This case may be assigned to the San Francisco Division
 20 because this case is not one of the enumerated types of cases in Civil Local Rule 3-2(c), because
 21 Plaintiff resides in Marin County, and because a substantial part of the conduct, events, acts, and
 22 omissions giving rise to the claims occurred in Contra Costa and San Francisco Counties. *See*
 23 Civil L.R. 3-2(c), (d).

24 **PARTIES**

25 13. Plaintiff Rosa Lopez is Mr. Sanchez Brito's mother and the court appointed legal
 26 guardian of V-S-, a minor and Mr. Sanchez Brito's son. She brings this action on behalf of V-S-
 27 in her capacity as his legal guardian. At all times relevant to this complaint, Ms. Lopez has been
 28 an individual domiciled in Marin County, California. V-S- is eleven years old and the only child

1 of Mr. Sanchez Brito. *See* Ex. A, Decl. of Rosa Lopez. At the time of Mr. Sanchez Brito's death,
 2 Mr. Sanchez Brito was unmarried. *Id.* Therefore, V-S- is Mr. Sanchez Brito's sole successor in
 3 interest. Because V-S- is a minor and Ms. Lopez is his court-appointed legal guardian, Ms.
 4 Lopez is a proper plaintiff in this case pursuant Fed. R. Civ. P. 17. *Id.*

5 14. Defendant United States of America is a proper defendant under the FTCA. 28
 6 U.S.C. § 1346(b). The United States is sued for the injuries and harm to Mr. Sanchez Brito
 7 caused by the wrongful acts or omissions of its employees, as well as its contractors that ICE
 8 supervised and for whom ICE bore responsibility for ensuring contractual and legal compliance.
 9 At all times from April 25, 2015 until December 10, 2021, Mr. Sanchez Brito was in ICE's
 10 continuous custody. All federal officers referenced in the complaint were at all relevant times
 11 acting within the scope and course of their employment when they caused harm to Mr. Sanchez
 12 Brito. All ICE officers who caused harm to Mr. Sanchez Brito were authorized to execute
 13 searches, seize evidence, or make arrests for violations of federal immigration laws, or were
 14 otherwise acting as federal investigative or law enforcement officers as defined by the FTCA.

15 15. Defendant GEO is a multinational private prison corporation, headquartered in
 16 Boca Raton, Florida, which operates jail and prison facilities in the State of California. GEO
 17 contracts with Defendant ICE to operate several facilities in ICE's immigration detention
 18 program, including Mesa Verde in Bakersfield, California, and the Golden State Annex in
 19 McFarland, California. GEO has substantial contacts within the geographical range of the
 20 Northern District of California, including that it operates Mesa Verde and the Golden State
 21 Annex under the oversight and supervision of the ICE San Francisco Field Office.

22 **FTCA EXHAUSTION**

23 16. The FTCA has an exhaustion requirement under which a claimant, before filing
 24 suit, must tender an administrative tort claim to the relevant federal agency. If the agency does
 25 not finally dispose of the administrative claim within six months, then the claimant is deemed to
 26 have exhausted administrative remedies. 28 U.S.C. § 2675(a). On November 29, 2022, Ms.
 27 Lopez and V-S- submitted through counsel, via email and certified mail, an administrative tort
 28 claim on FTCA Standard Form 95, on their own behalf and as Mr. Sanchez Brito's successors in

1 interest. Among other things, they alleged the United States was liable for false imprisonment,
 2 abusive conditions of confinement, emotional distress, pain, suffering, and death inflicted on Mr.
 3 Sanchez Brito, as well as loss of familial relationship inflicted on themselves and Mr. Sanchez
 4 Brito.

5 17. On February 8, 2023, ICE sent a letter acknowledging receipt of the Standard
 6 Form 95 submissions by Ms. Lopez and V-S-, which the agency states it received on December
 7 15, 2022. To date, ICE has sent no further communication and has not rendered a decision on
 8 their claims.

9 **BACKGROUND REGARDING ICE DETENTION**

10 **A. ICE Detention Program**

11 18. ICE is an executive agency of the United States responsible for immigration
 12 enforcement. It operates a vast detention program that imprisons tens of thousands of individuals
 13 every day – none of whom are serving time for a crime – for civil immigration proceedings.

14 19. “ICE contracts out its detention responsibilities to (1) private contractors” such as
 15 Defendant GEO, “who run facilities owned either by the contractor or the federal government,
 16 and (2) local, state, or other federal agencies,” such as Yuba County. *Geo Grp., Inc. v. Newsom*,
 17 50 F.4th 745, 751 (9th Cir. 2022). These responsibilities include the provision of programming,
 18 discipline, protection, transportation, and medical care for people in ICE custody, consistent with
 19 the applicable version of the ICE Performance Based National Detention Standards (“PBNDS”)
 20 referenced in their contracts. All individuals in the physical custody of ICE’s detention
 21 contractors are in the physical and legal custody of ICE.

22 20. Because immigration detention is nominally “civil” in nature, conditions of
 23 confinement may not amount to punishment. *See Youngberg v. Romeo*, 457 U.S. 307, 321-322
 24 (1982). When conditions of so-called civil confinement are “identical to, similar to, or more
 25 restrictive than” criminal pre-trial custody, they are presumptively punitive. *Jones v. Blanas*, 393
 26 F.3d 918, 932 (9th Cir. 2004).

B. ICE Policies Regarding Detention of Individuals with Claims to U.S. Citizenship

21. Under the Non-Detention Act, “[n]o citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress.” 18 U.S.C. § 4001(a). Although Congress has authorized ICE to take custody of non-citizens for immigration removal proceedings (*see* 8 U.S.C. §§ 1225(b), 1226(a), (c)), it has not authorized ICE to arrest or imprison U.S. citizens for such proceedings, nor could it. *See Flores-Torres v. Mukasey*, 548 F.3d 708, 710 (9th Cir. 2008) (“There is no dispute that if Torres is a citizen the government has no authority under the [Immigration and Nationality Act] to detain him, as well as no interest in doing so, and that his detention would be unlawful under the Constitution and under the Non-Detention Act[.]”).

22. Thus, if the agency wishes to challenge a U.S. citizen’s claim to citizenship, it is free to do so, but it must pursue such a challenge without detaining the person. For instance, the *non*-detained docket of immigration court, which ICE utilizes in hundreds of thousands of removal cases, is one potential venue for such a challenge.

Directive 16001.1

23. ICE’s written policy for the detention of individuals with claims to U.S. citizenship at the time of Mr. Sanchez Brito’s initial arrest was established by ICE Directive 16001.1, issued on Nov. 19, 2009 and intended to “ensure claims to U.S. citizenship receive immediate and careful investigation and analysis.”

24. Under Directive 16001.1, if there exists “some probative evidence that the individual is a USC [United States citizen], officers and agents should consult with” attorneys for ICE “as soon as practicable.” If probative evidence of U.S. citizenship outweighs probative evidence to the contrary, ICE may not take the person into custody, though it can initiate and pursue removal proceedings on the *non*-detained docket of immigration court.

25. Directive 16001.1 was likely unlawful because it impermissibly permitted imprisonment even if ICE could not sustain its well-established burden to prove deportability by “clear, unequivocal, and convincing evidence,” including proving that an alleged non-citizen is, in fact, a non-citizen. *See Woodby v. Immigr. & Naturalization Serv.*, 385 U.S. 276, 286 (1966).

1 It instead impermissibly placed the burden for release instead on the person claiming U.S.
2 citizenship to prove that citizenship by a preponderance of evidence. An executive agency cannot
3 give itself authority that it does not lawfully possess.

4 Directive 16001.2

5 26. Regardless of the legality of Directive 16001.1, it was superseded just a few
6 months into Mr. Sanchez Brito's imprisonment in ICE custody. On November 10, 2015, ICE
7 issued Directive 16001.2, which replaced Directive 16001.1. Directive 16001.2 remained
8 binding policy for the remainder of Mr. Sanchez Brito's confinement.

9 27. Under Directive 16001.2, "[i]t is ICE policy to carefully and expeditiously
10 investigate and analyze the potential U.S. citizenship of individuals encountered by ICE."
11 Directive 16001.2 requires ICE to handle citizenship matters with "the utmost care and highest
12 priority" and to check any "reasonable means available to" the agency when encountering
13 someone with a claim to U.S. citizenship.

14 28. After completing an investigation, Directive 16001.2 requires agents to promptly
15 prepare a memorandum for review by ICE Headquarters indicating whether the case falls into
16 one of three categories: (1) the evidence "strongly suggests that the individual is a U.S. citizen"
17 or the citizenship claim is "credible on its face;" (2) "[s]ome probative evidence indicates the
18 individual may be a U.S. citizen but the evidence is inconclusive;" or (3) "[n]o probative
19 evidence indicates the individual is a U.S. citizen." Directive 16001.2 broadly defines "probative
20 evidence of U.S. citizenship" under the second category to mean merely some evidence "that the
21 individual may, in fact, be a U.S. citizen." Per the Directive, not even a "preponderance of
22 evidence" is necessary to qualify as "some probative evidence" under the second category. ICE
23 Headquarters must make a decision on the memorandum's recommendation within one business
24 day when the subject of the memorandum is detained.

25 29. Directive 16001.2 forbids ICE from taking or keeping someone in custody for
26 removal proceedings *unless* the person falls into the third category, meaning that *no* probative
27 evidence indicates the individual is a U.S. citizen. Any person who falls into the first or second
28

categories (such as Mr. Sanchez Brito) and who was “already in ICE custody” (such as Mr. Sanchez Brito) “should be immediately released.”

C. ICE Policy Regarding Solitary Confinement and Segregation

30. When an individual in ICE custody cannot be safely detained in the general population of a facility, ICE policy permits their detention in segregated units, sometimes called “Special Management Units” (“SMUs”) or Restricted Housing Units (“RHUs”). ICE policy recognizes two forms of segregation: administrative and disciplinary segregation.

31. Administrative segregation is permitted by ICE policy when the individual’s continued presence in the general population poses a threat to life, property, self, staff, or other detainees; for the secure and orderly operation of the facility; or for medical reasons. According to ICE, administrative segregation is considered a non-punitive status and should be for the briefest term, under the least restrictive conditions practicable, and consistent with the rationale for placement.

32. Disciplinary segregation is punitive and can only be authorized after a hearing by a disciplinary panel for a violation of facility rules.

Directive 11065.1

33. On September 4, 2013, ICE issued Directive 11065.1, entitled “Review of the Use of Segregation of ICE Detainees.” Directive 11065.1 states ICE policy that placing an individual in segregated housing “is a serious step that requires careful consideration of alternatives” and “should occur only when necessary and in compliance with applicable detention standards.” “In particular, placement in administrative segregation due to a special vulnerability should be used only as a last resort and when no other viable housing options exist.” When segregation is imposed “for over 14 days” on anyone, or “for any length of time” on an individual with “known special vulnerabilities” such as “mental illness,” “ICE shall take additional steps to ensure appropriate review and oversight” of segregation decisions.

34. Directive 11065.1 requires that individuals “in administrative segregation shall receive the same privileges as detainees housed in the general population, consistent with safety and security concerns.”

35. Directive 11065.1 requires notification and periodic review by an ICE Field Office Director for extended segregation placements or placements involving an individual with mental illness. Upon such review, the Field Office Director “shall... arrange for utilization of such less restrictive options that are appropriate and available,” including “options to limit isolation, including additional out of cell time and the ability to participate in group activities.” If consistent with legal, public safety, and immigration enforcement concerns, “release from custody” should be considered. Such reviews should be conducted at 30-day intervals, with written reports to ICE Headquarters. ICE Custody Management Division and ICE Health Service Corps also have responsibilities to review segregation cases involving people with mental illness.

FACTUAL ALLEGATIONS

A. Mr. Sanchez Brito’s United States Birth and Childhood

36. In 1989, Ms. Lopez came to the United States with her daughter Elena, who was less than two-years-old. Ms. Lopez was only eighteen at the time, spoke no English, and lacked valid immigration documents. Her mother put them on a bus from their home in Morelos, Mexico, to Tijuana, Mexico, where they met up with Victor Sanchez Carrillo (“Mr. Carrillo”), Elena’s father. Mr. Carrillo had already been living in the U.S., and he brought them by foot back across the border into the United States.

37. Mr. Carrillo lived and worked on a ranch in Temecula, California and had arranged for them to all live in a trailer on the ranch in exchange for work. Ms. Lopez worked in the stables. Mr. Carrillo was extremely abusive and violent, and he controlled all aspects of Ms. Lopez’s life. At first, he did not permit her to leave the ranch for any reason, allowing her only to work and return to the trailer. When Ms. Lopez was pregnant with Mr. Sanchez Brito, Mr. Carrillo did not allow her to go see a doctor.

38. Baby Victor was born on April 1, 1990, in the trailer on the ranch where his parents worked and lived. There was no doctor present, but Mr. Carrillo brought someone named Nancy, who Ms. Lopez had never met, to help Ms. Lopez give birth.

39. Because Ms. Lopez was not allowed to leave the ranch, she did not register Mr. Sanchez Brito’s birth in the United States or obtain a birth certificate.

1 40. Home births are not uncommon in general, in Mexican farm-working families
2 more specifically, or in Ms. Lopez's own family even more specifically. Ms. Lopez herself was
3 born at home, and three of her four children were not born in a hospital.

4 41. After Victor, Ms. Lopez had two more sons with Mr. Carrillo: Raul was born in
5 1991, and Roberto was born in 1992. Mr. Carrillo had not wanted another child. After Raul was
6 born, he threatened that if she got pregnant again, he would kill her and the baby. With his
7 history of violence against them, Ms. Lopez believed the threats were real, so she hid her
8 pregnancy with Roberto by wearing baggy clothing.

9 42. In or around 2001, when he was about ten or eleven years old, Victor was
10 admitted to the Children's Hospital in San Diego California after suffering a serious head injury.
11 Although he had done well in school prior to the incident, his academic and cognitive function
12 declined afterward, and he became prone to having seizures.

13 43. Victor started having symptoms of mental illness around the age of 13 or 14, and
14 he was soon diagnosed with schizophrenia, bipolar type. Victor began to struggle behaviorally.
15 He had run-ins with the law that resulted in juvenile court proceedings and involvement with
16 Riverside Probation Department. As a result, he spent many years living in a group home.

17 44. Eventually, Ms. Lopez fled with Roberto from Mr. Carrillo, because she feared
18 for their lives based on his continued violence and threats against them. She moved to the San
19 Francisco area and stayed in a shelter for victims of domestic violence. Eventually, Victor and
20 his other siblings joined her in the Bay Area.

21 45. Ms. Lopez never thought about whether her children's births were registered,
22 because there was never any reason. Victor was involved with government social workers, the
23 Riverside Probation Department, and the juvenile court system. He went to school and received
24 benefits and medical care through Medi-Cal with his valid social security number, which he had
25 had since his childhood. Ms. Lopez believes it was obtained with the help of a social worker.
26 Nobody had ever questioned his U.S. citizenship to her.

27 46. In 2010, Ms. Lopez applied for a U visa, which is available to victims of violent
28 crime who help in the investigation of their abusers. As part of the application, U visa applicants

1 may request and obtain legal immigration status for their minor children who do not otherwise
2 have it. In the application, she truthfully listed Victor and his brothers as U.S.-born citizens, and
3 she listed Elena as born in Mexico.

4 47. In 2011, V-S- was born. Mr. Sanchez Brito was not married to the mother of
5 V-S-, and they did not remain together as a couple. Neither Ms. Lopez nor V-S- know her
6 current whereabouts. Thereafter, Ms. Lopez became the legal guardian of V-S-.

7 48. As an adult, Mr. Sanchez Brito continued to have run-ins with the law. He was
8 convicted of various crimes over the years, though he never received a sentence longer than one
9 year. He served time in Marin County Jail various times, but ICE never took custody of him as a
10 non-citizen or challenged his citizenship prior to arresting him in 2015, even though ICE had
11 agents stationed in the jail.

12 **B. 2015 ICE Arrest of Mr. Sanchez Brito**

13 49. On or about April 25, 2015, Mr. Sanchez Brito was scheduled to be released to his
14 home after completing a criminal sentence in the Marin County Jail. Unfortunately, he would not
15 return home that day as any other U.S. citizen would have. Instead, ICE Officer Marco Grasso
16 encountered Mr. Sanchez Brito. Officer Grasso was stationed at Marin County Jail as a member
17 of the “Criminal Alien Program” for the purpose of identifying immigrants in the jail who may
18 be subject to removal from the United States.

19 50. Officer Grasso had access to the jail’s booking system, which listed Mr. Sanchez
20 Brito as a U.S. citizen. Officer Grasso was aware based on the booking records that, throughout
21 Mr. Sanchez Brito’s interactions with law enforcement during his life, Mr. Sanchez Brito had
22 repeatedly informed law enforcement officers that his place of birth was the United States.
23 However, according to Officer Grasso, the booking records also had other entries listing him as
24 born in Mexico. Officer Grasso interviewed Mr. Sanchez Brito, who told him he was born in
25 California. Officer Grasso did not believe him.

26 51. Officer Grasso had obtained a delayed Mexican birth registration regarding Mr.
27 Sanchez Brito that he assumed established Mr. Sanchez Brito was born in Mexico. But the
28

1 delayed registration had significant and obvious defects on its face that undermined its reliability
2 as proof of Mexican birth.

3 52. Most notably, the delayed registration was not made by either of Mr. Sanchez
4 Brito's parents, but by his paternal grandmother. The document on its face clearly states that
5 neither the mother nor the father appeared or were present to register Mr. Sanchez Brito, and that
6 his paternal grandmother is the one who registered the birth.

7 53. In addition, the document was created more than three months after Mr. Sanchez
8 Brito's actual birth. United States officials regularly challenge the U.S. citizenship of people with
9 similarly delayed United States birth certificates, but Agent Grasso and ICE credited this delayed
10 Mexican birth registration without question.

11 54. Other aspects of the document that render it suspect could have been uncovered
12 with minimal investigation. For instance, it listed Mr. Sanchez Brito's maternal grandmother but
13 omitted her true first name, "Aurelia," and listed her residence as Coyocotla, Mexico, a place she
14 never actually lived. It also listed supposed "witnesses" who Mr. Sanchez Brito's mother had
15 never met or known. And the signature purportedly belonging to Ms. Lopez is not her signature,
16 a fact she could have easily confirmed if asked (and that was later conclusively established in
17 immigration court). A simple phone call from Officer Grasso to Ms. Lopez would have
18 confirmed these significant discrepancies, which would raise serious questions about the
19 document's provenance and reliability to any reasonable person. Inexplicably, and despite
20 Directive 16001.1's requirement of a thorough investigation, Officer Grasso did not even attempt
21 to contact Ms. Lopez.

22 55. Indeed, Officer Grasso did not even speak or read Spanish well enough to
23 understand the defects in the Spanish-language document. He later admitted under oath that he
24 did not understand or pay any attention to the portion of it that stated Mr. Sanchez Brito's parents
25 were not present for his registration in Mexico. Despite his admittedly flawed Spanish, he did not
26 request or obtain an English translation of the delayed registration.

1 56. Nor did Officer Grasso show the document to Mr. Sanchez Brito or his mother to
2 ask them about it. Neither Mr. Sanchez Brito nor his mother Ms. Lopez recalled ever seeing the
3 delayed registration prior to his removal proceedings.

4 57. Officer Grasso also appears to have originally accessed the delayed registration in
5 violation of California law. Officer Grasso first became aware of it by directly accessing Mr.
6 Sanchez Brito's juvenile file from the Riverside County Probation Department, which was
7 involved in some of Mr. Sanchez Brito's juvenile delinquency matters. However, Mr. Sanchez
8 Brito's juvenile file and all documents in it, including the delayed registration, were
9 presumptively confidential under California law. With a few inapplicable exceptions, the
10 contents of a juvenile file in California cannot be inspected or shared without juvenile court
11 approval, which must be obtained by filing a petition with the juvenile court. *See* Cal. Welf. and
12 Inst. Code § 827; Cal. R. Court 5.552. Even those authorized to have the document, like the
13 Riverside Probation Department or a school, cannot disseminate portions of a juvenile case file
14 without juvenile court approval. *Id.* However, rather than follow California legal requirements,
15 Officer Grasso instead contacted the Marin County Office of Education, which he was aware had
16 obtained a copy of the record from the Riverside Probation Department, and he obtained it
17 directly from them. Officer Grasso later stated he had no idea who provided the Mexican record
18 to the Marin County Office of Education and could only speculate as to that fact.

19 58. Despite being aware of Mr. Brito's lifelong claims of United States birth, and
20 despite not being able to adequately read or translate the Mexican delayed registration, Officer
21 Grasso did not conduct any further investigation at that time. He interviewed Mr. Sanchez Brito
22 only once. He never even attempted to contact Ms. Lopez, who obviously was a witness to Mr.
23 Sanchez Brito's birth, because he considered the matter a "shut" case. He did not attempt to
24 access Ms. Lopez's immigration file, to which he had ready access, which would have revealed
25 the prior U-visa application in which she stated that Mr. Sanchez Brito was born in the United
26 States but that her oldest daughter Elena was not. These were facts about which she had no
27 motivation to lie at the time, which any reasonable officer would have realized: if Mr. Sanchez
28 Brito was actually born outside the U.S., she could have listed him as such to obtain legal status

1 for him as she had done for Elena; and if she was going to lie, she would have listed Elena as
2 also born in the U.S.

3 59. As a result of his perfunctory and inadequate investigation, Officer Grasso
4 decided ICE should arrest Mr. Sanchez Brito as a non-citizen and imprison him without bond for
5 removal proceedings. ICE took him into custody at the Contra Costa County Jail that same day,
6 April 25, 2015.

7 60. Officer Grasso failed to follow Directive 16001.1 in Mr. Sanchez Brito's case.
8 Among other things, he did not immediately conduct a meaningful, careful, or lawful
9 investigation into Mr. Sanchez Brito's citizenship, did not consult with ICE attorneys before
10 requiring his imprisonment, and ordered his imprisonment based on alleged evidence of foreign
11 birth that he did not actually understand and that was insufficiently probative regarding Mr.
12 Sanchez Brito's actual place of birth.

13 **C. 2015-2018: ICE Imprisonment of Mr. Sanchez Brito at Yuba Jail and**
14 **Immigration Proceedings**

15 61. On or about April 27, 2015, ICE transferred Mr. Sanchez Brito to the Yuba Jail.
16 Yuba County contracted with ICE to imprison ICE detainees in the Yuba Jail. On information
17 and belief, ICE had officers on-site every day at Yuba Jail. ICE was responsible for the
18 supervision of Yuba Jail's ICE detention operations, as well as ensuring Yuba Jail's operational
19 compliance with ICE detention standards and contractual duties.

20 62. Based on his criminal history and his alleged Mexican citizenship, ICE deemed
21 Mr. Sanchez Brito to be subject to the so-called mandatory detention provisions of the INA, 8
22 U.S.C. § 1226(c).

23 63. On or about April 28, 2015, medical staff at Yuba Jail, performing medical
24 services for ICE detainees pursuant to the ICE contract, conducted an initial medical assessment
25 and noted in Mr. Sanchez Brito's file that he had been diagnosed with schizophrenia.

26 64. On or about May 3, 2015, ICE referred Mr. Sanchez Brito to a psychiatrist for a
27 psychiatric evaluation. The psychiatrist noted Mr. Sanchez Brito had been receiving regular
28

1 injections of Invega Sustenna to successfully manage his symptoms for roughly three years prior
2 to entering ICE custody. The psychiatrist ordered the Invega treatment to continue.

3 65. At the May 3 psychiatric evaluation, Mr. Sanchez Brito informed the psychiatrist
4 that he had his first immigration court hearing the next day, and that he hoped to be released
5 back home at that time.

6 66. On May 4, 2015, Mr. Sanchez Brito had his first immigration court hearing. He
7 was represented by counsel, who informed the immigration judge (“IJ”) and ICE counsel that
8 Mr. Sanchez Brito had a significant mental illness.

9 67. On or about May 18, 2015, the ICE Health Service Corps, described on ICE’s
10 website as “the only entity within ICE responsible for providing essential health care for all
11 noncitizens detained in ICE custody,”¹ conducted a mental health review of Mr. Sanchez Brito.
12 The doctor noted that Mr. Sanchez Brito reported having had auditory hallucinations since he
13 was eighteen years old. Mr. Sanchez Brito also reported that his Invega Sustenna injections
14 always helped him feel stabilized, even while in custody. The doctor noted that his appearance,
15 behavior, and thought processes were appropriate and that his attitude was respectful.

16 68. Despite the May 3 note that the Invega injections should continue, as well as
17 doctors’ awareness that it worked well for Mr. Sanchez Brito for years, during the course of his
18 incarceration at Yuba Jail and Mesa Verde, this treatment was not provided because it was not
19 “covered” by ICE. By fall of 2015, medical staff instead began treating Mr. Sanchez Brito’s
20 mental illness with Seroquel and Risperidone. Throughout his imprisonment, Mr. Sanchez Brito
21 repeatedly informed facility staff that these were not effective.

22 69. On June 29, 2015, Mr. Sanchez Brito had another immigration court hearing. His
23 mother testified under oath that she gave birth to him at their home in Temecula, with only Mr.
24 Castillo and his friend Nancy present, and that she never registered his birth. She was shown the
25 delayed Mexican registration for the first time in her life. She testified that she had never seen it
26 before that day, that the signature purporting to be hers was not hers, and that she had never
27

28 ¹ ICE Health Service Corps, <https://www.ice.gov/detain/ice-health-service-corps> (last checked August 9, 2023).

1 known anyone by the names of the witnesses to the registration that were listed in the document.
2 Other defects, like the fact that neither of Mr. Sanchez Brito's parents was present for the
3 registration, were also discussed in court. Despite this probative testimony, ICE continued to
4 imprison Mr. Sanchez Brito.

5 70. On July 14, 2015, another hearing was held, and Ms. Lopez testified again. She
6 explained that her husband Mr. Carrillo was abusive and threatened to take the children away
7 from her to Mexico. She also testified that he had told her he wanted to register the children in
8 Mexico so that they would not have any problems if he ever brought them back. Meanwhile, ICE
9 could not produce a witness from the Mexican government to authenticate the delayed
10 registration or explain its defects. At the end of that hearing, the IJ pointed out that the Mexican
11 birth registration was "clearly" an "orchestrated event." Nevertheless, ICE continued to keep Mr.
12 Sanchez Brito imprisoned.

13 71. Other immigration court hearings were held over the next few months. During
14 this period, a "long form" version of the delayed Mexican registration was produced, which was
15 different from the original one relied upon by ICE. This one had many of the same defects as the
16 one that had previously been produced, though it had no signature. During this same period, Mr.
17 Sanchez Brito's lawyer requested production of the memo required by Directive 16001.1 and
18 later by Directive 16001.2. ICE refused to produce it, claiming privilege.

19 72. On November 10, 2015, ICE issued Directive 16001.2, discussed above, requiring
20 that people currently in ICE custody for whom there was at least "some probative evidence" of
21 U.S. citizenship must be immediately released. Despite this mandatory requirement, ICE
22 continued to imprison Mr. Sanchez Brito. That same day in immigration court, ICE produced a
23 summary of a memo regarding Mr. Sanchez Brito's citizenship, but refused to produce the memo
24 itself, claiming it was privileged. On information and belief, the memorandum that was
25 summarized did not comply with the requirements of Directives 16001.1 or 16001.2.

26 73. At an immigration hearing on December 15, 2015, ICE counsel admitted the
27 agency had no witnesses to call to corroborate its assertion that Mr. Sanchez Brito was born in
28 Mexico, relying only on the fact that the orchestrated, delayed Mexican registration was an

1 official document. Mr. Sanchez Brito's attorney presented the testimony of a handwriting expert,
2 who testified that the signature on the document purporting to belong to Ms. Lopez was not her
3 signature. Still, ICE continued to imprison Mr. Sanchez Brito.

4 74. At a February 29, 2016 hearing, ICE cross-examined the hand-writing expert,
5 after which the IJ noted that the expert's testimony that the signature on the delayed Mexican
6 registration did not belong to Ms. Lopez was convincing. Nevertheless, ICE continued to
7 imprison Mr. Sanchez Brito.

8 75. On January 30, 2017, the IJ ordered Mr. Sanchez Brito removed, though he found
9 Ms. Lopez's signature on the delayed Mexican registration was falsified. The Board of
10 Immigration Appeal upheld the IJ's order on July 14, 2017. Mr. Sanchez Brito timely petitioned
11 for review to the Ninth Circuit.

12 76. On December 19, 2017, pursuant to 8 U.S.C. § 1252(b)(5)(B), the Ninth Circuit
13 issued an order transferring Mr. Sanchez Brito's petition for review to the district court for de
14 novo review of his citizenship claim, stating "We find that a genuine issue of material fact exists
15 as to petitioner's claim of United States citizenship." Order, *Sanchez Brito v. Sessions*, No. 17-
16 72066 (9th Cir. Dec. 19, 2017), ECF No. 12. A genuine issue of material fact could not exist
17 unless there was "some probative evidence" of U.S. citizenship, as defined by Directive 16001.2.
18 Nevertheless, ICE kept Mr. Sanchez Brito imprisoned in violation of that Directive.

19 77. While his immigration proceedings were playing out over these years, Mr.
20 Sanchez Brito was suffering greatly in custody. By the winter of 2016, it became clear that his
21 mental health was deteriorating and that his treatment was not effective. He began refusing to
22 take his Risperidone, which he informed staff was not working. He got caught with contraband a
23 few times, including marijuana and Suboxone, which he almost certainly used as a form of self-
24 medication to help manage his symptoms. By February 2016, medical staff noted that Mr.
25 Sanchez Brito had become dysphoric, confused, and "grossly disorganized." His attorney
26 expressed concern to the IJ and in March 2016 requested another hearing to re-determine his
27 competency. In April 2016, Mr. Sanchez Brito bit through his tongue. He repeatedly stated that
28 he was desperate to get out of custody.

1 78. During his incarceration at Yuba Jail, Mr. Sanchez spent significant durations of
2 time in solitary confinement. Indeed, on information and belief, the majority of his imprisonment
3 at Yuba Jail was spent in administrative segregation, where he was confined to his cell 22 to 23
4 hours a day. While in the segregated unit, he was given limited access to programming, yard
5 time, and other benefits available to people in the general population.

6 79. Even when Mr. Sanchez Brito was in the general population, the conditions were
7 harsh. On information and belief, immigration prisoners at Yuba Jail were mixed in with and
8 subjected to similar conditions as people in criminal custody. On information and belief, the
9 conditions were similar to those depicted in the photos below, which are true and correct copies
10 of photographs filed in another case before this Court as true and correct copies of photographs
11 of the living units at Yuba Jail taken in 2015. *See* Decl. of Sean Riordan, ¶¶ 3, 5, *Zepeda Rivas v.*
12 *Jennings*, Case No. 3:20-cv-02731, (N.D. Cal. Apr. 20, 2020), ECF No. 5-6.



Case 4:23-cv-04292-DMR Document 1 Filed 08/23/23 Page 20 of 45



80. Indeed, the conditions for individuals in ICE custody at Yuba Jail were widely known to be harsh. On October 21, 2021, twenty-four members of Congress sent a letter to Secretary of Homeland Security Alejandro Mayorkas, urging him to end contracts at three ICE detention centers in California, including Yuba Jail. The congressional letter stated, “Those detained at Yuba have experienced a lack of medical care, broken hygiene facilities, unsanitary conditions including mold and insects, spoiled food, and excessive use of solitary confinement, leading to repeat protests and hunger strikes, when formal complaints were mishandled,” in

1 addition to retaliation by guards against detained individuals.² As noted in the congressional
 2 letter, “the ICE Office of Detention Oversight’s most recent inspection of Yuba revealed 31
 3 deficiencies and found that it was in compliance with only half of the 18 ICE detention
 4 standards.”³

5 81. The congressional letter echoed concerns raised by advocates. An administrative
 6 complaint filed with the DHS Office of Civil Rights and Civil Liberties noted a 2018 “hunger
 7 strike to protest inadequate medical care; the unjustified failure to provide access to programs
 8 and religious services; and lack of working toilets and lights,” as well as retaliation and assault
 9 by guards against hunger striking individuals.⁴ The complaint also cited to ongoing court
 10 monitoring of the facility that found “persistent delays in providing medical and mental health
 11 care” and “inadequate medical and mental health staffing generally.”⁵

12 82. On information and belief, Mr. Sanchez Brito was confined in conditions similar
 13 to or worse than those depicted in the photographs above and described in the congressional
 14 letter and administrative complaint.

15 83. Ultimately, his mistreatment and prolonged incarceration and isolation led to an
 16 apparent psychotic break: in or around April 2018, Mr. Sanchez Brito was suffering so greatly
 17 that he had to be hospitalized in an in-patient facility due to his deteriorating mental health.

18 **D. 2018-2021: ICE Imprisonment in Mesa Verde and District Court Citizenship** 19 **Proceedings**

20 84. On or around July 4, 2018, ICE transferred Mr. Sanchez Brito from Yuba Jail to
 21 Mesa Verde, operated by Defendant GEO pursuant to a contract with ICE.

22
 23
 24 ² Congressional Letter to DHS Secretary Alejandro Mayorkas (Oct. 21, 2021), available at
 25 <https://lofgren.house.gov/sites/evo-subsites/lofgren-evo.house.gov/files/CA%20ICE%20Detention%20Letter.pdf>.

26 ³ *Id.*

27 ⁴ Cal. Collab. for Immigrant Justice, Centro Legal de la Raza, and ACLU California Affiliates,
 28 Administrative Complaint, “First Amendment Retaliation Against Individuals in Immigration
 Detention in California,” (Aug. 26, 2021), available at
https://www.aclunc.org/sites/default/files/OCRCL%20complaint.08.26.21%20_0.pdf.

⁵ *Id.*

1 Conditions at Mesa Verde

2 85. On information and belief, ICE stationed officers on-site every day at Mesa Verde
3 and was responsible for the supervision and oversight of GEO's detention operations there,
4 including ensuring GEO's compliance with ICE detention standards and contractual duties. GEO
5 at times subcontracted its medical duties under its ICE contract, but GEO still bore ultimate non-
6 delegable responsibility for those duties, and GEO did or should have recognized that its
7 subcontractors' performance of those duties was likely to create a particular risk of physical
8 harm in the absence of special precautions, which GEO did not take.

9 86. Pursuant to its contract with ICE, Defendant GEO receives compensation for
10 every day each incarcerated individual spends in its Mesa Verde facility. As a result, the
11 corporation has a financial incentive to keep individuals in its custody longer and not to advocate
12 for the release of anyone in its custody.

13 87. People in the general population at Mesa Verde are subjected to harsh conditions
14 by Defendants. The general population area of the jail is made up of four housing units with fifty
15 bunk beds in each, cramming 100 "civil" detainees together in extremely tight quarters. They are
16 locked up behind razor wire and cell walls in a secured facility that they are forbidden from
17 leaving, where Defendants (a) force them to wear color-coded prisoner jump suits, (b) dictate the
18 nature of their medical treatment, (c) decree when meals are given and what meals would be
19 provided, (d) mandate when lights go on and off, (e) forbid them from accessing the internet, (f)
20 prevent them from having contact visits with family and loved ones, (g) restrict access to outdoor
21 spaces, (h) determine what educational programming might be offered, if any, (i) prevent them
22 from working for fair wages while charging them for any amenity not deemed necessary,
23 including phone calls, and (j) guard them at all times with armed guards authorized to inflict
24 punishment for violations of rules, including through the imposition of solitary confinement.
25 These conditions were in place during Mr. Sanchez Brito's imprisonment.

88. On information and belief, the conditions faced by Mr. Sanchez Brito while in general population were similar to those depicted in the photos below, which are true and correct copies of photographs filed in another case before this Court as true and correct copies of photographs of the general population living units at Mesa Verde that had been published by the media. Decl. of Sean Riordan, ¶ 7, Ex. F, *Zepeda Rivas v. Jennings*, Case No. 3:20-cv-02731 (N.D. Cal. Apr. 20, 2020), ECF No. 5-6:





89. Advocates and individuals inside Mesa Verde routinely protest the harsh conditions there, including spoiled food, mold, mishandling of the COVID-19 pandemic, abusive and retaliatory treatment, unsafe and exploitive labor conditions, and inadequate medical care. The California Department of Justice found that two months after California declared a state of emergency due to COVID-19, while Mr. Sanchez Brito was there, GEO was still refusing to test individuals imprisoned at Mesa Verde for COVID-19 because they had no room to quarantine people who tested positive.⁶ These issues have sparked hunger strikes and several lawsuits by individuals confined in Mesa Verde in recent months and years. These conditions were in place during Mr. Sanchez Brito’s imprisonment at Mesa Verde.

Defendants’ Treatment of Mr. Sanchez Brito at Mesa Verde

90. Mr. Sanchez Brito deteriorated further while imprisoned at Mesa Verde. He was originally housed in general population, but by September 2018 Defendants had already placed him in administrative segregation in the “RHU” – the term for Mesa Verde’s segregated (or restricted) housing unit – for an alleged safety concern. He spent a substantial amount of the next three years in a cramped cell in administrative segregation. Defendants’ stated reasons for his placement in the RHU would vary: “for his own protection from other detainees,” he was “acting

⁶ California Department of Justice, *Review of Immigration Detention in California* at 138-39 (Jan. 2021), available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2021.pdf>.

1 out” in the dorms, “safety concern,” “custody protection,” “disciplinary reasons,” “facility
2 initiated placement for his own protection.” Beneath all these stated reasons is one inescapable
3 underlying fact: every time Defendants placed him in segregation, it was because of his serious
4 mental illness, which Defendants caused to deteriorate while he was in their custody.

5 91. Mr. Sanchez Brito was in agony while in the RHU. He repeatedly told facility
6 staff he wanted to return to the general population. Although Defendants occasionally did return
7 him to general population, it was always short-lived. His deteriorating mental health would result
8 in Defendants placing him back in solitary confinement for grossly excessive continuous periods,
9 often many months in duration. In 2020, one continuous period of solitary confinement stretched
10 to five months. There were other similarly lengthy periods, including another five-month
11 continuous period immediately prior to his release in December 2021.

12 92. The conditions in the RHU were unusually cruel and isolating, even compared to
13 the segregation conditions in Yuba Jail. His cell was tiny, with only a bed, toilet, and sink, and
14 no room for anything else. In width, an adult male of average height can nearly touch both walls
15 by reaching out his hands. In length, there is not enough room for an adult male of average
16 height to do a push-up, unless he separates his legs so that one foot is on either side of the toilet.
17 There is no window to the outside in the cell. There is a television in the RHU, but to see it from
18 one’s cell, one has to be standing up and at the cell door.

19 93. On information and belief, there are only three cells in the RHU at Mesa Verde,
20 one of which is reserved for suicide watch, though Defendants sometimes use it for disciplinary
21 segregation when the other two cells are occupied. There is only a tiny yard attached to the unit,
22 which on information and belief takes about one hundred steps to walk around in circumference.

23 94. In addition to the isolating physical structure, Defendants’ treatment of Mr.
24 Sanchez Brito in the RHU exacerbated the isolation. In general population, GEO provides very
25 limited programming services for people imprisoned at Mesa Verde, but at least there are
26 occasional arts and crafts, a weekly movie night in the chow hall, a purportedly “volunteer” work
27 program, and a comparatively large workout yard with numerous exercise machines. Even these
28

1 minimal services provide the opportunity to socialize with others, which is a fundamental life
2 necessity for everyone, and is particularly important for people with significant mental illness.

3 95. The situation in the RHU was far bleaker by comparison. For Mr. Sanchez Brito,
4 even the few services and programming opportunities available to people in general population
5 were not available to him while he was in the RHU. On information and belief, he was denied
6 access to all the services described in the preceding paragraph. When he was in administrative
7 segregation, Mr. Sanchez Brito would get no more than one-to-two hours per day of access to the
8 tiny outside area attached to the RHU, and he would get access to the library for one hour a
9 week. However, even during these brief periods out of his cell, Defendants kept him isolated
10 from other detained people and forced him to be alone.

11 96. Mr. Sanchez Brito's conditions and out-of-cell time were not materially different
12 whether he was in disciplinary segregation or administrative segregation.

13 97. GEO staff often harassed and made fun of Mr. Sanchez Brito because of his
14 mental illness. For instance, on at least one occasion while in the RHU, Mr. Sanchez Brito was
15 having a mental health crisis and asked to use the phone so he could talk to his mom, but GEO
16 staff told him no and instead made fun of him and harassed him while he was suffering.

17 98. On information and belief, Defendants heavily medicated Mr. Sanchez Brito to
18 the point of near-sedation. Most of Mr. Sanchez Brito's days came to be spent sleeping,
19 occasionally running in place or performing limited exercise in the confines of his cell, and
20 watching TV while standing up and looking through an opening in his cell door. Although he
21 would regularly call his mother when he first entered ICE custody, by the end of his time he
22 would call less frequently and would not call at all when he was isolated and doing poorly.

23 99. Most of Mr. Sanchez Brito's medical visits were with nurses and social workers,
24 not psychiatrists.

25 100. Although ICE eventually began to conduct limited review of Mr. Sanchez Brito's
26 extended solitary confinement, the cursory, rubber-stamp review did not comply with the robust
27 requirements of ICE's written policies, including Directive 11065.1.

1 101. In spring 2020, Mr. Sanchez Brito spent significant time in solitary confinement
2 at Mesa Verde. On May 17 of that year, another individual with mental illness who GEO had
3 placed in extended solitary confinement in the Mesa Verde RHU killed himself by hanging.

4 102. In May 2020, ICE was given the opportunity to release Mr. Sanchez Brito in the
5 context of litigation before this Court to reduce the population at Mesa Verde in response to the
6 COVID-19 pandemic. *See Zepeda Rivas v. Jennings*, Case No. 3:20-cv-02731, (N.D. Cal. 2020).
7 ICE opposed his release in a written submission to this Court that did not so much as mention his
8 claim to citizenship or his pending citizenship case in the Eastern District of California pursuant
9 to the Ninth Circuit's remand order in his removal case. It also did not mention that someone had
10 hung himself a week earlier in the same segregated unit in which Mr. Sanchez Brito was being
11 held.

12 103. By late 2020, Mr. Sanchez Brito decompensated to the point that he could barely
13 hold a conversation. He reported having seizures. He had given up hope, feeling as if he would
14 never leave custody and would be stuck there for the rest of his life. He woke up from sleep
15 unable to move. Medical reports from November 2020 indicate he had a possible psychotic
16 break, was "unable to communicate in complete sentences," experienced headaches that he rated
17 nine on a pain scale of ten, and had attempted suicide.

18 104. On or about November 26, 2020, Defendants sent Mr. Sanchez Brito to Paradise
19 Valley Hospital in San Diego County, where medical records indicate he was "acting bizarrely,"
20 "appears to be confused," and appeared "disheveled" and "unkempt." He received inpatient care
21 there, and the hospital stabilized him. He was sent back to Mesa Verde in early December 2020.

22 105. Unsurprisingly, his stability did not last once he returned to Mesa Verde. By
23 spring 2021, he had decompensated again, and Defendants sent him to Columbia Regional Care
24 Center ("Columbia Care") in South Carolina for in-patient mental health care and for precautions
25 against suicide, because Mr. Sanchez Brito said he did not want to live anymore in detention. On
26 information and belief, Columbia Care acts as an ICE subcontractor to treat people in ICE
27 custody who have serious mental illness. At all times while in Columbia Care, such individuals
28 are still in ICE custody. At some point during his time at Columbia Care, Mr. Sanchez Brito was

1 forcibly medicated. He spent the majority of time at Columbia Care in isolation. He was only
2 able to call his family on weekends, the only times that the calls were free.

3 106. In or around July 2021, ICE returned Mr. Sanchez Brito to Mesa Verde from
4 Columbia Care. Defendants promptly sent him back to solitary confinement, where he remained
5 for the rest of his time in ICE custody.

6 District Court Citizenship Proceedings: 2018-2022

7 107. While Mr. Sanchez Brito was suffering in Defendants' custody, his citizenship
8 proceedings were playing out in the District Court for the Eastern District of California before
9 the Honorable Kimberly J. Mueller, after the Ninth Circuit had transferred the case on December
10 19, 2017.

11 108. On July 14, 2020, Judge Mueller denied the United States' motion for summary
12 judgment, finding that "a genuine question of material fact exists regarding plaintiff's ability to
13 rebut the presumption of alienage through substantial credible evidence." *Brito v. Barr*, No.
14 2:18-CV-00097-KJM-DB, 2020 WL 4003824, at *8 (E.D. Cal. July 15, 2020). Specifically, the
15 court held that Ms. Lopez's testimony about Mr. Sanchez Brito's birth, combined with her listing
16 him as a U.S. citizen in a U-visa application that predated his proceedings, while listing her
17 daughter as born in Mexico, was sufficient to "raise a genuine question of fact regarding whether
18 he was born in the United States[.]" *Id.* The legal implications of Judge Mueller's order included
19 (1) that the United States had not met its burden to establish Mr. Sanchez Brito was a non-citizen
20 by clear and convincing evidence, based on the undisputed evidence, and (2) that, although the
21 court could not determine whether Mr. Sanchez Brito provided "substantial credible evidence" of
22 his U.S. citizenship without a trial, there was necessarily at least "some probative evidence" (as
23 defined by Directive 16001.2) that Mr. Sanchez Brito was a U.S. citizen. Despite this summary
24 judgment order – which was issued months before Mr. Sanchez Brito's apparent psychotic break
25 in fall 2020 – Defendants continued to imprison Mr. Sanchez Brito at Mesa Verde, in violation
26 of Directive 16001.2.

27 109. Seven months later, on February 21, 2021, the court held a bench trial on Mr.
28 Sanchez Brito's citizenship claim. The court heard testimony from Ms. Lopez and Officer

1 Grasso, as well as Gretchen Kuner, Co-founder of the Institute for Women in Migration, who
2 testified as an expert on binational families from Mexico. Among other things, Ms. Kuner
3 explained that prior to 1997, Mexican law did not allow for automatic Mexican nationality for
4 U.S.-born children of Mexican parents. As a result, it was common for undocumented Mexican
5 parents with U.S.-born children to register those children as born in Mexico for a number of
6 reasons, including as a precaution if the parents were deported. She also testified that it was
7 extremely easy to do so, and that it was not uncommon for grandparents to fraudulently register
8 children as born in Mexico who were not, even without the presence of the parent or child. By
9 this point, Mr. Sanchez Brito had been hospitalized based on his deteriorating mental health, yet
10 after hearing this obviously probative testimony, the United States continued to imprison him.

11 110. On December 10, 2021, Judge Mueller issued her ruling, finding that Mr. Sanchez
12 Brito “has produced ‘substantial credible evidence,’ by a preponderance of the evidence, of his
13 U.S. citizenship,” and concluding that he “is a U.S. citizen.” *Sanchez v. Garland*, No. 2:18-CV-
14 00097-KJM-DB, 2021 WL 5867473, at *9 (E.D. Cal. Dec. 10, 2021). The court noted that Mr.
15 Lopez’s testimony about her son’s birth was “corroborated by her consistent past reports of
16 Brito’s U.S. birth made in government documents, which she completed before his citizenship
17 was in dispute,” and by “Ms. Kuhner’s opinions” regarding fraudulent Mexican birth
18 registrations. *Id.* at *8.

19 111. The court also found that Officer Grasso’s investigation of Mr. Sanchez Brito’s
20 birth was “incomplete,” faulting him for not “asking Ms. Lopez about Brito’s birth,” for “not
21 considering the cultural context of the Mexican registration of the birth,” and for “his
22 unquestioning reliance on information in databases” that Mr. Sanchez Brito was born in Mexico
23 when they actually “contain[ed] conflicting information” about his birth. *Id.*, at *8, 9 (E.D. Cal.
24 Dec. 10, 2021). The court found that “Officer Grasso also did not evaluate critically the
25 information contained in the Mexican birth certificate, which was registered three months after
26
27
28

1 Brito's undisputed birth date, with the delayed registration raising a potential red flag." *Id.* at *9
 2 (E.D. Cal. Dec. 10, 2021).⁷

3 112. It was only after this decision that ICE relented and that same day, at long last
 4 after imposing nearly seven grueling years of unjustified confinement, released Mr. Sanchez
 5 Brito from custody. In defiance of Directive 16001.2's unequivocal requirement of release when
 6 there is merely "some probative evidence" of U.S. citizenship, which "need not" rise to the level
 7 of "a preponderance of evidence," ICE steadfastly refused to relinquish custody of Mr. Sanchez
 8 Brito until a court found that he produced a preponderance of evidence.

9 113. However, Defendants were not finished mistreating Mr. Sanchez Brito. With no
 10 transition plan at all for their fellow citizen who had just spent the last five straight months in
 11 solitary confinement after a psychotic break, ICE officers released Mr. Sanchez Brito directly to
 12 the street in a highly confused and deteriorated mental state, with only four days' worth of
 13 medication.

14 **E. Mr. Sanchez's Death**

15 114. By the time Defendants finally released him, the damage they caused had been
 16 done. When Mr. Sanchez Brito entered ICE custody, he was coherent, oriented to place and time,
 17 and able to sustain ordinary conversation. His mental health symptoms were reasonably
 18 controlled. But Defendants' treatment of Mr. Sanchez Brito systematically wore him down and
 19 broke him, causing significant decompensation, several psychotic breaks, and permanent harm to
 20 his mental health. Defendants caused his physical well-being to suffer as well. In September
 21 2015, months after he entered ICE custody, he weighed 192 pounds. By June 2020, he weighed a
 22 scant 165 pounds.

23 115. Mr. Sanchez Brito was unable to recover from the trauma of his imprisonment.
 24 After his release, he was paranoid and fearful. He would avoid others by going on long walks
 25

26 ⁷ This ruling was later amended on reconsideration to exclude references to evidence that had not
 27 been admitted. *Sanchez v. Garland*, No. 2:18-CV-00097-KJM-DB, 2022 WL 4237801 (E.D. Cal.
 28 Sept. 14, 2022. The amended ruling, which supersedes the December 10, 2021 ruling, did not
 repeat the court's earlier findings regarding Mr. Grasso's incomplete investigation, but it reached
 the same conclusion regarding Mr. Sanchez Brito's U.S. citizenship.

1 during the day and by sleeping under his bed or behind a pile of clothes at night. He had
 2 nightmares and would constantly relive his ordeal.

3 116. In April 2022, Mr. Sanchez Brito disappeared from home, and his brother found
 4 him two weeks later in a homeless encampment in Marin County. He appeared not to have
 5 showered for weeks and refused to leave with his brother. Ms. Lopez then went to see him, and
 6 he told her that he was scared to be around people he knew and felt safer in a place where
 7 nobody knew who he was. She ultimately persuaded him to go back home.

8 117. On May 9, 2022, Mr. Sanchez Brito's mental health had deteriorated to the point
 9 that Ms. Lopez felt that he was a danger to himself, and she requested that he be civilly
 10 committed to a hospital in Marin County. However, he promptly left the hospital and later that
 11 day called his mother and told her that he loved her with all his heart.

12 118. He did not come home again. Two days later, on May 11, 2022, a Solano County
 13 detective called Ms. Lopez and informed her that Mr. Sanchez Brito's body had been found in an
 14 abandoned building in Vallejo. The medical examiner later determined he had died by drug
 15 overdose. He was 32 years old. Ms. Lopez believes his last call had been to tell her goodbye.

16 119. As a result of Defendants' actions, eleven-year-old V-S- will never know his
 17 father.

18 120. Mr. Sanchez Brito lived for twenty-five years and twenty-four days before
 19 entering ICE custody. He spent six years, seven months, and sixteen days – nearly half of his
 20 adult life – imprisoned and abused by ICE and its subcontractors, including GEO. He survived
 21 only 152 days after his release.

22 **F. Defendants' Patterns and Practices of Conduct Relevant to this Case**

23 *ICE Targeting of Home-Birthed U.S. Citizens of Mexican Descent*

24 121. Officer Grasso's and ICE's tunnel-vision insistence on imprisoning Mr. Sanchez
 25 Brito occurred in a larger context of ICE engaging in a practice of pursuing the removal of
 26 individuals claiming U.S. citizenship based on home birth to Mexican mothers.

27 122. ICE has conducted such enforcement efforts even when the agency knew that the
 28 individuals it targeted had lived their entire lives in the United States as U.S. citizens. ICE

pursued such enforcement efforts even when the birth was years ago, and the agency was aware that witnesses to the birth would have long since moved or passed away, as in Mr. Sanchez Brito's case. This practice had been going on prior to, during, and after Mr. Sanchez Brito's arrest. Because of this practice, ICE agents were or should have been aware that giving birth at home is a common practice in all cultures, including Mexican culture, and that a not-insignificant number of undocumented mothers from Mexico would have feared coming out of the shadows to give birth in a United States hospital. As a result, ICE agents were aware that such enforcement actions would ensnare potential U.S. citizens, yet the agency persisted in its practice of targeting home-birther U.S. citizens of Mexican descent for removal.

123. In addition, ICE was or should have been aware, through its pattern of enforcement against home-birther U.S. citizens of Mexican descent, that it was commonplace for Mexican families with U.S.-born children to later register those children as born in Mexico, out of a fear that, if deported or if they decided to return to Mexico voluntarily, their children would not be able to access services if the children were not so registered. Nevertheless, ICE persisted in its pattern of enforcement against home-birther U.S. citizens and vigorously challenged such claims, including by imprisoning claimants to U.S. citizenship, as in Mr. Sanchez Brito's case.

Defendants' Use of Prolonged Solitary Confinement and ICE's Failure to Monitor Contractors' Use of Segregation

124. Although ICE contracts out for the performance of its detention duties, ICE bears ultimate non-delegable responsibility for those duties, and ICE did or should have recognized that Yuba County's and GEO's performance of those duties were likely to create a particular risk of physical harm in the absence of special precautions, which ICE did not take.

125. This is particularly true regarding the imposition of prolonged solitary confinement in ICE custody. On October 13, 2021, the DHS Office of Inspector General ("OIG") issued a memorandum to ICE entitled *ICE Need to Improve Its Oversight of Segregation Use in Detention Facilities*.⁸ OIG analyzed detention files from 2015 through 2019

⁸ DHS Office of Inspector General, *ICE Needs to Improve Its Oversight of Segregation Use in Detention Facilities*, OIG-22-01 (Oct. 13, 2021), available at <https://www.oig.dhs.gov/sites/default/files/assets/2021-10/OIG-22-01-Oct21.pdf>.

1 and found that ICE lacked any evidence “showing it considered alternatives to segregation for 72
 2 percent of segregation placements,” destroyed detention files, lacked “effective oversight and
 3 clear policies to ensure accurate and comprehensive tracking and reporting on the use of
 4 segregation,” and “prevent[ed] transparency with Congress and the public about the prevalence
 5 of segregation use.”⁹

6 126. Defendant GEO also engages in a pattern and practice of confining people in
 7 segregation for prolonged periods. On July 13, 2023, several non-profit organizations submitted
 8 an administrative complaint documenting the abuse and overuse of segregation by GEO in its
 9 ICE detention facility in Aurora, Colorado.¹⁰ The complaint documented several incidents in
 10 which GEO had imposed weeks of solitary confinement under inhumane conditions and alleged
 11 violations of applicable detention standards and the Rehabilitation Act.

12 127. The United States and its agents, as well as GEO, are aware of the devastating
 13 impacts of solitary confinement, which has become common knowledge. As noted above, one
 14 individual killed himself during a period of extended solitary confinement at Mesa Verde during
 15 the same timeframe that Mr. Sanchez Brito was being held in the same unit. Studies have found
 16 that “More than a third (33%) of people held in solitary confinement become psychotic and/or
 17 suicidal within the first 15 days, and people who have been subjected to solitary confinement are
 18 78% more likely to commit suicide within a year of being released from prison.”¹¹ The harm of
 19

20 ⁹ *Id.*

21 ¹⁰ American Immigration Council, National Immigration Project of the National Lawyer’s Guild,
 22 and Rocky Mountain Advocacy Network, *Complaint Detailing Abusive Overuse of Solitary
 23 Confinement and Mistreatment That Disproportionately Impacts Persons with Disabilities at the
 24 Aurora Contract Detention Facility* (July 12, 2023),

https://www.americanimmigrationcouncil.org/sites/default/files/research/misuse_of_solitary_confinement_in_colorado_immigration_detention_center_complaint.pdf

25 ¹¹ *Written Submission of Robert F. Kennedy Human Rights to the International Independent
 26 Expert Mechanism to Advance Racial Justice and Equality in the context of Law Enforcement*
 27 (Feb. 24, 2023), <https://rfkhumanrights.org/written-submission-of-rfk-human-rights-to-the-international-independent-expert-mechanism-to-advance-racial-justice-and-equality-in-the-context-of-law-enforcement> (citing Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 *Crime and Delinquency* 124 (2003); Lauren Brinkley-Rubinsten, Josie Sivaraman & David L. Rosen, *Association of Restrictive Housing During Incarceration with Mortality After Release*, *JAMA Network Open* (2019).

1 prolonged solitary confinement is widely known to be particularly devastating for people with
 2 significant mental illness. Yet, despite being aware of the harm, Defendants engage in a willful
 3 pattern and practice of imposing prolonged solitary confinement on people in their custody, as
 4 they did to Mr. Sanchez Brito, and they will continue to do so until they are held accountable.

5 **CAUSES OF ACTION**

6 **COUNT ONE**

7 **Federal Tort Claims Act: False Imprisonment** 8 ***Defendant United States***

9 128. All the foregoing allegations are repeated and realleged as though fully set forth
 10 herein.

11 129. The United States is liable under the FTCA for the tortious acts of its employees
 12 in “circumstances where the United States, if a private person, would be liable to the claimant in
 13 accordance with the law of the place where the act or omission occurred.” 28 U.S.C. § 1346(b);
 14 28 U.S.C. § 2674.

15 130. Plaintiff brings this cause of action as legal guardian to V-S-, successor in interest
 16 to Mr. Sanchez Brito under California Code of Civil Procedure § 377.30 (Survival Action).

17 131. At all relevant times, ICE officials acted within the scope of their employment
 18 and/or official duties as employees of DHS, an agency of the United States.

19 132. ICE is not authorized to detain a U.S. citizen for removal proceedings.

20 133. Agents of the United States violated Directive 16001.1 by arresting and
 21 imprisoning Mr. Sanchez Brito based on the cursory, inadequate, illegal, and incomplete
 22 investigation of Officer Grasso and others.

23 134. Agents of the United States violated Directive 16001.2 by continuing to imprison
 24 Mr. Sanchez Brito’s. At all times Directive 16001.2 was in effect, ICE agents were aware of
 25 “some probative evidence,” as defined by Directive 16001.2, that Mr. Sanchez Brito was a U.S.
 26 citizen.

COUNT TWO
Federal Tort Claims Act: Negligence
Defendant United States

138. The United States is liable under the FTCA for the tortious acts of its employees in “circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.” 28 U.S.C. § 1346(b); 28 U.S.C. § 2674.

141. Agents of the United States owed a duty of care to Mr. Sanchez Brito while he was in their custody and when considering taking him into custody.

- a. Violating applicable, mandatory, and binding policies;
- b. Failing to adequately investigate his citizenship claim prior to ICE taking custody of him and during his imprisonment in ICE custody;
- c. Failing to follow California law regarding juvenile records in investigating Mr. Sanchez Brito's citizenship claim;

- d. Failing to release him when they had some probative evidence of his U.S. citizenship;
- e. Failing to ensure the conditions of his confinement did not amount to punishment;
- f. Failing to protect him against prolonged confinement, including prolonged solitary confinement, or to follow binding policies regarding their oversight of his prolonged solitary confinement;
- g. Failing to abate known substantial risk of serious harm and to protect him from harm, including harm to his physical and mental health;
- h. Failing to release him when his solitary confinement became prolonged, whether outright or under the abundant alternatives to incarceration the agency had at its disposal and did not use; and
- i. Releasing him to the street without adequate protection against harm and with inadequate medication.

143. The breaches of duty by agents of the United States were the direct, proximate, and legal cause of harm and injuries to Mr. Sanchez Brito, including pain, suffering, loss of freedom, and loss of enjoyment of life.

144. The actions of Defendant United States and its agents constitute the tort of negligence under the laws of the State of California.

COUNT THREE

Federal Tort Claims Act: Intentional Infliction of Emotional Distress *Defendant United States*

145. All the foregoing allegations are repeated and realleged as though fully set forth herein.

146. The United States is liable under the FTCA for the tortious acts of its employees in “circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.” 28 U.S.C. § 1346(b); 28 U.S.C. § 2674.

1 147. Plaintiff brings this cause of action as legal guardian to V-S-, successor in interest
2 to Mr. Sanchez Brito under California Code of Civil Procedure § 377.30 (Survival Action).

3 148. At all relevant times, ICE officials acted within the scope of their employment
4 and/or official duties as employees of DHS, an agency of the United States.

5 149. Agents of the United States engaged in outrageous conduct that was intended to
6 cause or that recklessly disregarded the possibility of causing emotional distress to Mr. Sanchez
7 Brito, knowing Mr. Sanchez Brito was present or in ICE custody when the conduct occurred.
8 This conduct included:

- 9 a. Violating applicable, mandatory, binding policies;
- 10 b. Refusing to release him when they had some probative evidence of his U.S.
11 citizenship;
- 12 c. Willfully and deliberately engaging in tactics that would obviously prolong his
13 imprisonment;
- 14 d. Refusing to release him under ample alternatives to incarceration that were
15 readily available;
- 16 e. Willfully and deliberately subjecting him to conditions of civil confinement that
17 amounted to punishment;
- 18 f. Willfully and deliberately subjecting him to dangerous conditions of confinement
19 and prolonged confinement, including prolonged solitary confinement; and
- 20 g. Releasing him to the street without adequate protection against harm and with
21 inadequate medication.

22 150. The conduct of United States officials was the actual and proximate cause of or a
23 substantial factor in causing Mr. Sanchez Brito's emotional suffering.

24 151. The actions of the United States constitute the tort of intentional infliction of
25 emotional distress under the laws of the State of California.

26 /

27 /

28 /

COUNT FOUR

Violation of the Rehabilitation Act – 29 U.S.C. § 794

Defendant GEO

152. All the foregoing allegations are repeated and realleged as though fully set forth herein.

153. Plaintiff brings this cause of action as legal guardian to V-S-, successor in interest to Mr. Sanchez Brito under California Code of Civil Procedure § 377.30 (Survival Action).

154. Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance or conducted by any Executive agency. 29 U.S. § 794. Damages may be recovered against government contractors under the Rehabilitation Act.

155. Defendant GEO operates, and at all times relevant operated, at least one program or activity for ICE for which it receives federal financial assistance. This includes subsidies GEO receives from the federal government in connection with its so-called “Voluntary Work Program.” Under this program, the United States authorizes GEO to use the labor of people incarcerated in its facilities, including Mesa Verde, to perform essential work for the operation of the facilities that would otherwise have to be performed by hiring additional staff or contractors in the community at market rates. The United States provides GEO a stipend of at least \$1 per day for each such individual.

156. On information and belief, to the extent GEO offers other programs, including its medical program, it also receives federal subsidies to operate some of those programs.

157. Alternatively, GEO also administers at Mesa Verde a program or activity conducted by an Executive agency, namely ICE’s immigration detention program. ICE considers the operation of immigration detention facilities to be a federally conducted program for purposes of the Rehabilitation Act, and the agency contracts with GEO for the performance of this program on its behalf at various locations, including Mesa Verde.

158. Mr. Sanchez Brito was an individual with a disability as defined by the Rehabilitation Act. He was diagnosed with and was regarded as having schizoaffective disorder, a mental impairment that substantially limited one or more of his major life activities.

1 159. GEO deliberately and/or with deliberate indifference discriminated against Mr.
2 Sanchez Brito by, among other things:

- 3 a. Unnecessarily and unreasonably subjecting him to solitary confinement, including
4 for prolonged periods;
- 5 b. Denying him access to programming and services, including programming and
6 services available to people in general population such as ordinary yard and
7 recreation time, arts and crafts, work programs, education, and other
8 programming;
- 9 c. Failing to ensure proper treatment of his medical condition, including by failing to
10 administer Invega Sustenna – the only treatment known to work for Mr. Sanchez
11 Brito – simply because it was not on the authorized “schedule”;
- 12 d. Failing to provide adequate medication upon release, denying him full access to
13 appropriate medical and mental health services; and
- 14 e. Harassing him and verbally abusing him through its guards and failing to protect
15 him from known harassment and verbal abuse by guards and other detained
16 people.

17 160. GEO failed to accommodate Mr. Sanchez Brito’s disability by providing access to
18 programs and activities, including but not limited to the work program. GEO’s discrimination
19 against and treatment of Mr. Sanchez Brito described herein occurred solely or substantially
20 because of his disability. Had he not been disabled, Mr. Sanchez Brito would have been
21 otherwise eligible for the programming and activities he was denied.

22 161. GEO was aware that its conduct and treatment of Mr. Sanchez Brito, including as
23 described in the preceding two paragraphs, was substantially likely to result in harm to his
24 federally protected rights, including rights to reasonable safety, to adequate medical care, to be
25 free from arbitrary or prolonged detention, to be free from harsh conditions of confinement, and
26 to be free from disability discrimination. GEO failed to act upon that likelihood.

27 162. GEO’s discrimination against Mr. Sanchez Brito on account of his disability and
28 its failure to accommodate Mr. Sanchez Brito’s disability caused him harm, including pain,

suffering, severe emotional distress, decompensation of his mental health, loss of freedom, and loss of enjoyment of life.

COUNT FIVE

Cal. Civ. Code §§ 51, 52 (Unruh Act): Disability Discrimination
Defendant GEO

163. All the foregoing allegations are repeated and realleged as though fully set forth herein.

164. Plaintiff brings this cause of action as legal guardian to V-S-, successor in interest to Mr. Sanchez Brito under California Code of Civil Procedure § 377.30 (Survival Action).

165. Mr. Sanchez Brito was an individual with a mental disability as defined by the Cal. Civ. Code §§ 12926, 12926.1. He was diagnosed with and was regarded as having schizoaffective disorder, a mental or psychological condition that limited a major life activity.

166. GEO and its facility Mesa Verde are business establishments doing business in California and are otherwise governed by California laws protecting the rights of individuals with disabilities.

167. GEO denied, aided in denial of, made a distinction that denied, and/or discriminated against Mr. Sanchez Brito resulting in a denial to Mr. Sanchez Brito of full and equal access to advantages, accommodations, facilities, privileges, and services to Mr. Sanchez Brito, including:

- a. Unnecessarily and unreasonably subjecting him to solitary confinement, including for prolonged periods;
- b. Denying him access to programming and services, including programming and services available to people in general population such as ordinary yard and recreation time, arts and crafts, work programs, education, and other programming;
- c. Failing to ensure proper treatment of his medical condition, including by failing to administer Invega Sustenna – the only treatment known to work for Mr. Sanchez Brito – simply because it was not on the authorized “schedule”;

- d. Failing to provide adequate medication upon release, denying him full access to appropriate medical and mental health services; and
- e. Harassing him and verbally abusing him through its guards and failing to protect him from known harassment and verbal abuse.

168. GEO's conduct described in the preceding paragraph was intentional or committed with deliberate indifference. A substantial motivating reason for GEO's conduct was Mr. Sanchez Brito's mental illness, and GEO's conduct was a substantial motivating reason in causing Mr. Sanchez Brito harm, including pain, suffering, severe emotional distress, decompensation of his mental health, loss of freedom, and loss of enjoyment of life.

COUNT SIX
Cal. Civ. Code § 1714: Negligence
Defendant GEO

169. All the foregoing allegations are repeated and realleged as though fully set forth herein.

170. Plaintiff brings this cause of action as legal guardian to V-S-, successor in interest to Mr. Sanchez Brito under California Code of Civil Procedure § 377.30 (Survival Action).

171. Defendant GEO owed a duty of care to Mr. Sanchez Brito and breached its mandatory, non-discretionary duties to him, including in the following ways:

- a. Failing to protect him against prolonged confinement, including prolonged solitary confinement;
- b. Failing to ensure safe conditions of confinement and/or to abate or protect him from known substantial risk of serious harm, including harm to his physical and mental health;
- c. Failing to ensure proper treatment of his medical condition, including by failing to administer Invega Sustenna – the only treatment known to work for Mr. Sanchez Brito – simply because it was not on the authorized “schedule”; and
- d. Releasing him to the street without adequate protection against harm and with inadequate medication.

1 172. GEO's breaches of duty described in the preceding paragraph constitute
2 negligence and were a substantial factor in causing Mr. Sanchez Brito harm, including pain,
3 suffering, severe emotional distress, decompensation of his mental health, loss of freedom, and
4 loss of enjoyment of life.

5
6 **COUNT SEVEN**
7 **Intentional Infliction of Emotional Distress**
8 ***Defendant GEO***

9 173. All the foregoing allegations are repeated and realleged as though fully set forth
10 herein.

11 174. Plaintiff brings this cause of action as legal guardian to V-S-, successor in interest
12 to Mr. Sanchez Brito under California Code of Civil Procedure § 377.30 (Survival Action).

13 175. Defendant GEO, as well as staff and contractors working under GEO's direction
14 and supervision, engaged in outrageous conduct, that was intended to cause or that recklessly
15 disregarded the possibility of causing emotional distress by Mr. Sanchez Brito, knowing Mr.
16 Sanchez Brito was present when the conduct occurred. This conduct included:

- 17 a. Subjecting him to dangerous conditions of confinement, including prolonged
18 solitary confinement;
19 b. Denying him access to Invega Sustenna – the only treatment known to work for
20 Mr. Sanchez Brito – simply because it was not on the authorized “schedule,” even
21 when his mental health was obviously deteriorating without it;
22 e. Harassing him and verbally abusing him; and
23 f. Releasing him to the street without adequate protection against harm and with
24 inadequate medication.

25 176. GEO's actions and conduct were a substantial factor in causing Mr. Sanchez Brito
26 to suffer emotional distress, and they constitute the tort of intentional infliction of emotional
27 distress under the laws of the State of California.

28 /

/

COUNT EIGHT

Cal. Gov. Code § 7320: Violation of Detention Standards
Defendant GEO

177. All the foregoing allegations are repeated and realleged as though fully set forth herein.

178. Plaintiff brings this cause of action as legal guardian to V-S-, successor in interest to Mr. Sanchez Brito under California Code of Civil Procedure § 377.30 (Survival Action).

179. GEO is a private detention facility operator.

180. GEO is required to exercise a duty of ordinary care and skill in adhering to the detention standards of care agreed upon in the Mesa Verde contract for operations.

181. The contract between GEO and ICE requires compliance with ICE's 2011 PBNDS, which set the applicable standards of care at all times during Mr. Sanchez Brito's incarceration at Mesa Verde. These standards required GEO to, among other things:

- a. Ensure that individuals imprisoned at Mesa Verde are housed "in the least restrictive... setting possible";
- b. Make "every effort" to ensure individuals imprisoned at Mesa Verde with serious mental illness are placed "in a setting in or outside of the facility in which appropriate treatment can be provided, rather than an isolation unit, "if separation from the general population is necessary";
- c. Use isolation only as a "last resort" for individuals imprisoned at Mesa Verde with special vulnerabilities;
- d. Ensure that individuals in protective custody are to be provided with the same access to services as those in the general population, to the extent possible;
- e. Not place any individuals into an isolation unit based solely on their disability;
- f. Consider how an person's disability or mental illness "contributed to" behavior or perceived misconduct when determining what discipline to administer;
- g. Consult with a "mental health professional" in any disciplinary process involving someone with a mental illness;

h. Provide “medically necessary and appropriate medical... and mental health care and pharmaceutical services” to individuals in custody; and

i. Provide to individuals, upon their release from ICE custody, “medication, referrals to community-based providers as medically appropriate, and a detailed medical case summary” to ensure continuity of care.

182. In Mr. Sanchez Brito’s case, GEO, including through its contractors, negligently and willfully violated each of the requirements of the PBNDS described in the preceding paragraph, causing Mr. Sanchez Brito harm, including pain, suffering, severe emotional distress, decompensation of his mental health, loss of freedom, and loss of enjoyment of life.

COUNT NINE

Cal. Civ. Code § 52.1 (Bane Act): Violation of Constitutional or Statutory Right *Defendant GEO*

183. All the foregoing allegations are repeated and realleged as though fully set forth herein.

184. Plaintiff brings this cause of action as legal guardian to V-S-, successor in interest to Mr. Sanchez Brito under California Code of Civil Procedure § 377.30 (Survival Action).

185. GEO, its employees, and contractors intentionally interfered with or attempted to interfere with Mr. Sanchez Brito’s civil rights by threats, intimidation, or coercion.

186. GEO’s intentional, intimidating, and coercive use of solitary confinement, verbal harassment, and denial of appropriate and necessary medication and medical care caused Mr. Sanchez Brito to reasonably believe that if he exercised his right as a U.S. citizen to be free from civil immigration detention, to be housed in a less restrictive setting than solitary confinement, or to be subjected to conditions of confinement less restrictive than criminal custody, that GEO would commit an act of violence against him.

187. GEO intentionally acted violently against Mr. Sanchez Brito to prevent him from exercising his rights as a U.S. citizen to be free from civil immigration detention, to be housed in a less restrictive setting, or to be subjected to conditions of confinement less restrictive than criminal custody, including by forcibly placing him in prolonged solitary confinement.

188. GEO use of violence, threats, and intimidation were intended to deprive Mr. Sanchez Brito of his rights as a U.S. citizen to be free from civil immigration detention, to be housed in a less restrictive setting than solitary confinement, or to be subjected to conditions of confinement less restrictive than criminal custody, including by forcibly placing him in prolonged solitary confinement.

189. GEO's conduct caused or was a substantial factor in causing Mr. Sanchez Brito harm, including pain, suffering, severe emotional distress, decompensation of his mental health, loss of freedom, and loss of enjoyment of life.

PRAYER FOR RELIEF

190. Pursuant to the foregoing causes of action, Plaintiff prays that this Court grant the following relief:

- a. Award compensatory and punitive damages to Plaintiff and V-S- in an amount to be proven at trial;
- b. Award reasonable costs and attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(b), 29 U.S.C. § 794a; Cal. Gov. Code § 7320(c), and any other applicable statute or regulation, to the extent allowable by such statute or regulation; and
- c. Grant such further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

191. Pursuant to Civil L.R. 3-6(a) and Fed. R. Civ. P. 38, Plaintiff hereby demands a trial by jury of all claims so triable in this action (Causes of Action Four through Nine).

August 23, 2023

Respectfully submitted,

By: /s/ Bardis Vakili
 Bardis Vakili
 Law Office of Bardis Vakili, P.C.

Attorney for Plaintiff Rosa Lopez and Minor V-S-